

## VI. LIABILITY INSURANCE ISSUES IN OTHER STATES

*A review of activities in other states is helpful in developing a list of potential*

“As liability premiums continue to soar, state policymakers appear to be considering the matter with careful scrutiny. Seeking a balance between strong resident’s rights and adequate protections for the long-term care industry, legislators are aware of the enormous implications that actions such as tort reform and state funding for liability insurance can have on the interested parties, not the least of which are consumers, providers and states.”

-- Elizabeth Devore, NCSL Report, *Nursing Homes: The Escalating Liability Crisis*.

*actions that could be undertaken in California to*

*address the cost and availability of liability*

*insurance. Over 20 percent of the individual*

*states either have recently introduced or enacted*

*legislation that attempts to address cost and*

*availability of liability insurance for nursing homes.*

*The National Conference of State Legislatures*

*(NCSL), Health Policy Tracking Services, monitors*

*legal actions across the nation related to medical*

*liability (see Appendix G) and has begun to survey*

*legislative action on liability insurance for nursing homes. Each state is unique,*

*however, in its approach to seeking an appropriate balance between resident’s*

*rights and protections for the LTC industry.*

Any comparison of activities in other states also must consider the LTC options available, the demographics of the state, and clinical aspects of resident care. All states license nursing homes and contract with the federal government to certify eligibility and conduct legal enforcement actions for Medicare and Medicaid. However, states also differ in approach because of policy priorities and program organization. Table 6 (page 76) summarizes legislative activities recently enacted or under consideration by other states, comparing them with California requirements.

Colorado, Pennsylvania, and Utah require SNFs to notify the state regarding liability insurance coverage. In those states, securing liability insurance had not been an issue in previous years. Pennsylvania, however, passed significant legislation on March 20, 2002 that would change its liability insurance requirements.

Florida, Texas, and Arkansas began experiencing high premiums and limited availability of nursing home liability insurance a few years ago and recently passed reform legislation targeted at containing insurance rates for nursing homes.

### **WHAT HAPPENED IN FLORIDA?**

Florida's experience illustrates what can happen when civil litigation costs are high, liability insurance premiums are rising, and admitted liability insurers drop out of the market altogether. In 2000, Beverly Enterprises, the nation's largest operator of nursing homes, announced that it intended to sell all of its 49 nursing homes in Florida and four assisted living facilities. Beverly had experienced losses for increased liability insurance reserves related primarily to those Florida properties. The risks involved in doing business in the state outweighed the potential for profit.

Florida's legislature first attempted to modify its tort law for all businesses in 1997, but no legislation was passed. In 1998, Senate Bill 874 reached the Governor's desk but was vetoed because "it gave unfair advantage to big business, and did not adequately compensate innocent victims in its provisions".<sup>1</sup> In 1999, House Bill (HB) 775 was enacted. While this legislation included provisions to address liability coverage, it provided exceptions for cases involving abuse of disadvantaged persons and the elderly.

In January 2000, at the request of the Florida Health Care Association, Aon Worldwide Actuarial Solutions published an actuarial analysis of the cost of general liability and professional liability (GL/PL) claims to the long-term care industry operating in Florida. Providers included in the study were for-profit, multi-facility providers. The results of Aon's analysis showed that long-term care GL/PL costs in Florida were "higher than any other state (including Texas and California) in the United States."<sup>2</sup>

In May 2000, the Florida Legislature established the Task Force on Availability and Affordability of Long-Term Care (HB 1993). The Task Force was chaired by the Lieutenant Governor and comprised stakeholders and experts in the long-term care field. The Florida Policy Exchange Center on Aging (FPECA), University of South Florida, provided staff support. The charge of this group was threefold: to create a balanced long-term care system, improve nursing home quality of care, and contain the costs of litigation.

According to FPECA's "Overview of Staff Findings and Recommendations", the average size of a nursing home litigation claim in Florida was \$278,637 in 1999, 250 percent more than the average claim in the other states (\$112,351).<sup>3</sup> As of February 2001, Florida had no admitted insurance carriers (those regulated by the Department of Insurance) that would provide liability coverage for long-term care facilities. Surplus insurance carriers also had effectively stopped writing policies in the state.

Task Force members did not vote on the conclusions and recommendations included in the "Final Staff Informational Report" published January 28, 2001. The report is full of footnotes and clarifications identifying issues on which individual members questioned the findings and recommendations, and sometimes even the data used to describe the situation.<sup>4</sup>

The efforts of the Task Force, however, resulted in a comprehensive nursing home reform package, SB 1202, that addressed nursing home tort reform, liability insurance reporting requirements, nurse staffing standards, and other quality of care provisions (see Table 6, page 75). Other components of the package included creation of a Quality of Long-Term Care Facility Improvement Trust Fund to support quality initiatives, mentoring programs for direct care staff, specialized training for staff working with Alzheimer's residents, and incentives to enhance job stability and career development.

Evaluating the effectiveness of Florida's comprehensive reform package is difficult at this time, since most of its provisions have been in place for less than a year. In addition, some differences between Florida and California make direct comparisons difficult. Prior to 2001, Florida did not have elder abuse statutes. Elder abuse lawsuits were based on patient's rights causes of action, or infringing on the rights of the elderly. Many of the rights identified were vague and not properly defined. On the other hand, the terminology and burden of proof requirements for civil liability and elder abuse cases in California statute are quite specific.

The Florida Health Care Association commissioned a follow-up study by the Florida Policy Exchange Center on Aging at the University of South Florida to examine the extent of the liability insurance crisis in the state. That report, published in December 2001, found that on average, nursing homes were still paying nearly \$150,000 in premiums to obtain, often only limited, liability coverage. Twenty percent of facilities were uninsured, 36 percent were self-insured and 28 percent did not expect to renew their coverage.<sup>5</sup> Legislation has been introduced in the 2002 Florida legislative session to open the Florida Residential Property and Casualty Joint Underwriting Association to nursing homes and assisted living facilities.

AB 1202 required nursing homes to maintain liability insurance at all times. Florida delayed enforcement of the requirement until January 1, 2002. LTC

industry representatives filed an appeal of the coverage requirement. Facilities found liability insurance either was not available or the costs were too high. On February 20, 2002, Florida established the House Select Committee on Liability Insurance for Long Term Care Facilities to review the issue further.<sup>6</sup>

The committee held two workshops, at which time experts and interested parties were invited to testify. A final report was issued on March 15, 2002. The committee concluded that:

During the short time the Select Committee has reviewed the liability problem within the long term care sector, no consensus has emerged among the various organizations and interest groups participating in the debate over the existence, or nature, of a specific crisis, nor whether any immediate legislative or administrative solution should be applied.<sup>7</sup>

## **WHAT HAPPENED IN TEXAS?**

The Texas Senate Research Center published a briefing document in February 2001, "Nursing Home Liability Insurance Rates: Factors Contributing to the Rate Increases in Texas." The report indicated that nursing homes in Texas were facing "unprecedented rate increases in their liability insurance premiums."<sup>8</sup> The legislative focus in attempting to resolve the situation centered on: nursing home surveys as evidence in civil lawsuits, Medicaid reimbursement rates, punitive damage caps, and a public rating system of nursing homes.

In June 2001, the Texas Legislature enacted SB 1839, the Long-Term Care Facility Improvement Act. Similar to Florida, Texas implemented a comprehensive package of changes to address liability insurance, the nursing home survey process, and quality improvement (see Table 6, page 76). The provisions included: for-profit nursing homes added to the facilities eligible to participate in the state's JUA, mandated liability insurance, the development of an "early warning system," and a Long Term Care Facility Quality Outreach Program. For the outreach program, the new legislation essentially shifted approximately 10 percent of the positions previously budgeted for surveyors and enforcement into a program that provides technical assistance and training to facilities to support quality improvement.

In December 2001, the Texas Department of Insurance (TDI) published a set of "best practices" guidelines aimed at reducing nursing home claims. Both insurance companies and the Texas Medical Liability Insurance Underwriting Association may consider a nursing home's adoption and use of the best practices in determining the nursing home's rates for medical professional liability insurance.

The “best practices” document sets forth guidelines directed at nine risk exposure areas: falls, resident abuse, pressure ulcers, nutrition and hydration, medication management, restraints, infection control, burns and scalds, and elopement. According to TDI, “[t]he best practices do not establish standards of care that could be used against a nursing home in a civil lawsuit. Rather, the emphasis is on procedures for minimizing insurance claims and, by extension, improving the quality of care received.”<sup>9</sup>

Since many components needed to implement this legislation are still in the development stage, evaluation of the legislation’s effectiveness is premature. For example, the TDI has created a tier-rating system of nursing homes that considers a number of factors that determine risk of insurability including:

- Past Claims Experience;
- Quality of Care Rating (An Online State Rating System);
- Staff Ratios
- Tenure and Credentials of Key Personnel;
- Risk Management, Loss Control, and General Safety; and
- Ombudsman Program Evaluation.<sup>10</sup>

At this time only one nursing home has obtained liability insurance under the JUA. Nursing homes have until September 2003 before they are mandated to carry liability coverage.

A recent article in the *Insurance Journal*, *The Property and Casualty Magazine of Texas*, reviewed the current status of nursing homes’ efforts to obtain medical liability coverage. The article reported that while the Texas Department of Human Services anticipate that the liability insurance requirement may influence the market, other sources “say the legislature still has a lot of work to do before long-term problems are solved.”<sup>11</sup> The Texas legislature meets every two years, and the next session will convene in January 14, 2003.

#### Medical Liability Market

On May 6, 2002, the Texas House Insurance Committee also met to review the status of the broader medical liability insurance market. While the discussion included both nursing home liability insurance and physician malpractice insurance, several items in the testimony of the Insurance Commissioner are of interest to this study:

- The number of companies writing medical liability insurance in Texas has dropped from 17 last year to 4 currently;
- From 1996 to 2000, the cost of insurance rose 15 percent;
- “Arizona and California perform consistently better [than Texas], while Florida’s problem is consistently worse than Texas.”<sup>12</sup>

## **ARKANSAS NURSING HOME LIABILITY INSURANCE POOL**

Arkansas enacted the Nursing Home Liability Insurance Act in 2001. The state's Department of Insurance is now proceeding with plans to create a voluntary, liability insurance pool. A NCSL summary of the legislation states:

The plan will provide coverage, on a per violation basis, that is limited to \$1million per occurrence and a \$3 million aggregate amount per year. Coverage will include actual damages, non-economic compensatory damages and defense costs, but not punitive damages and other standard exceptions in liability contracts.<sup>13</sup>

## **OTHER STATES**

### NCSL

According to NCSL, in 2001, Arkansas, Florida, Indiana, Massachusetts, Tennessee, and Texas initiated bills on the topic of liability insurance for nursing homes. In 2002, six states already have introduced specific legislative proposals related to nursing home liability insurance: Iowa, Massachusetts, Mississippi, Ohio, Pennsylvania, and Tennessee.<sup>14</sup>

### Recent Pennsylvania Action

On March 20, 2002, the Governor of Pennsylvania signed into law the "Medical Care Availability and Reduction of Error Act." The Act applies to physicians, hospitals, and other medical providers. It included:

- Insurance reform- reductions in mandatory medical professional liability insurance amounts, and a phase-out of the existing catastrophic loss fund to be replaced by a similar "Mcare" Fund.
- Medical professional liability reform- caps on punitive damages, prohibition of duplicative recovery, and a statute of limitations.
- Patient safety- new requirements in the area of patient safety, including requirements for development of Patient Safety Plans.<sup>15</sup>

### American Health Care Association (AHCA) Study

Aon Risk Consultants, Inc., at the request of AHCA, conducted an actuarial analysis of the cost of GL/PL claims to the LTC industry in the United States. The study was released on February 28, 2002. In addition to Florida and Texas, which had experienced the most significant GL/PL cost increases, Aon identified six other states that were experiencing similar cost trends: Georgia, West Virginia, Arkansas, Mississippi, Alabama, and California.<sup>16</sup>

## Implications

*The experiences of Florida, Texas, Arkansas, and Pennsylvania—states that implemented legislation to address liability insurance issues—attest to the complexity of tackling this issue. There are no “quick fixes” to improve the availability and cost of GL/PL insurance for nursing homes. Any solutions must be comprehensive in nature and implemented with the involvement of stakeholders who share the responsibility for ensuring the existence of a high quality system of long-term care for the future.*

TABLE 6.

**CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS**  
**Adopted or Introduced in 2001-02 by Other States**  
 (States in bold have enacted statutes)

| Other State's Insurance Reforms   | Existing California Statute or Process  |
|---|---|
| <ul style="list-style-type: none"> <li>▪ Insurers required to provide market information to insurance commissioner (<b>TX</b>)</li> <li>▪ Insurance commissioner published best practices for risk management and loss control (<b>TX</b>)</li> <li>▪ Establish joint underwriting association (JUA) or other state sponsored risk pool for nursing homes (<b>TX, AR, PA</b>)</li> <li>▪ Use public bonding authority to capitalize risk pool or JUA reserves (<b>TX</b>)</li> <li>▪ Medicaid waiver to use portion of Medicaid payment as capital for risk pool (<b>FL</b>)</li> </ul> | <ul style="list-style-type: none"> <li>▪ No requirement for routine provision of information related to liability insurance for long-term care providers.</li> <li>▪ No best practices for risk management from insurance commissioner.</li> <li>▪ No present authority to establish JUA.</li> <li>▪ No present bonding authority.</li> <li>▪ No Medicaid waiver for use as capital for risk pool.</li> </ul> |

# CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS

Adopted or Introduced in 2001-02 by Other States

(States in bold have enacted statutes)

| Other State's Civil Law  | Existing California Statute or Process  |
|--|---|
| <ul style="list-style-type: none"> <li>▪ Persons claiming elder abuse violations bear burden of proof that breach of duty caused injury (<b>FL</b>)</li> <li>▪ Presuit notice and waiting period for elder abuse claims (<b>FL</b>) <ul style="list-style-type: none"> <li>→ Prior notice 75 days before filing</li> <li>→ Facility may conduct evaluation and respond in writing</li> <li>→ Once claimant receives written response 30 days to meet in mediation</li> <li>→ Claimant has 60 days to file</li> </ul> </li> <li>▪ Shortened statute of limitations for elder abuse claims (<b>FL, MS, OH, PA</b>) <ul style="list-style-type: none"> <li>→ Actions initiated within two years of discovery or incident's occurrence (exception to a maximum of six years)</li> </ul> </li> <li>▪ Caps or limits on punitive damages (<b>FL, OH</b>) <ul style="list-style-type: none"> <li>→ Punitive damages for intentional misconduct or gross negligence.</li> <li>→ No greater than three times the compensatory damages awarded each claimant, or \$1 million (specified exceptions)</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>▪ Existing definitions, burden of proof in EDACPA. Use "reasonable care" standard, (Section 15657 W&amp;I Code).</li> <li>▪ No action based on professional negligence before giving 90 days notice (Code of Civil Procedure Section 364).</li> <li>▪ Statute of limitations three years or one year after discovery (with specified exceptions) for cases of professional negligence (Code of Civil Procedure Section 340).</li> <li>▪ Statute of limitation one year for injury or malpractice or death of one caused by the wrongful act or neglect of another (Section 340)</li> <li>▪ No punitive damages under MICRA (Civil Code Section 3333.2) <ul style="list-style-type: none"> <li>→ Exception under EDACPA when "clear and convincing standard" that demonstrates specific improper actions on the part of employee and employer (W&amp;I Code 16657(c)).</li> </ul> </li> </ul> |

# CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS

Adopted or Introduced in 2001-02 by Other States

(States in bold have enacted statutes)

| Other State's Civil Law  | Existing California Statute or Process   |
|--|--|
| <ul style="list-style-type: none"> <li>▪ Insurers not liable for punitive damage awards if they decline to settle claims within policy limits (<b>TX</b>)</li> <br/> <li>▪ Selection of survival damages or wrongful death damages (<b>FL</b>) <ul style="list-style-type: none"> <li>→ Cannot obtain both wrongful death and survival damages in cases where resident dies</li> <li>→ Can recover costs of action but not damages</li> </ul> </li> <br/> <li>▪ Limits on admissibility of licensing inspections and citations as evidence (<b>TX</b>, MS, <b>OH</b>)</li> <br/> <li>▪ Limits on attorneys' fees (<b>FL</b>) <ul style="list-style-type: none"> <li>→ Repeals fees for injury or death fees</li> <li>→ Caps fees at \$25,000 for claims with a court order</li> </ul> </li> <br/> <li>▪ Elimination or curtailment of residents' rights violations as a cause of action (<b>OH</b>)</li> <br/> <li>▪ Limits on pain and suffering damages (TN, <b>MS</b>)</li> </ul> | <ul style="list-style-type: none"> <li>▪ Punitive damages not insurable in California if deemed to be "willful" (Section 533 of Insurance Code).</li> <br/> <li>▪ EDACPA Cases <ul style="list-style-type: none"> <li>→ Can obtain both wrongful death and survival damages</li> <li>→ Can recover costs of action and damages</li> </ul> </li> <br/> <li>▪ Licensing inspections and citations are admissible as evidence, <b>Statement of Deficiency</b> forms and citations are public documents. Facility Plans of Correction (POC) cannot be used as an admission of violation in legal proceedings unless court decides relevance.</li> <br/> <li>▪ MICRA limits non-economic losses to \$250,000, (Civil Code, Section 3333.2). <ul style="list-style-type: none"> <li>→ Exception under EDACPA which provides for "reasonable attorneys fees" (W&amp;I Code, Section 16657(a))</li> </ul> </li> <br/> <li>▪ EDACPA provisions include resident rights violations (W&amp;I Code, Section 15657).</li> <br/> <li>▪ MICRA limits non-economic losses to \$250,000 (Civil Code, Section 3333.2(b)).</li> </ul> |

# CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS

Adopted or Introduced in 2001-02 by Other States  
(States in bold have enacted statutes)

| Other states' Licensing Reforms   | Existing California Statute or Process   |
|---|--|
| <ul style="list-style-type: none"> <li>▪ Nursing homes required to maintain liability insurance (<b>FL, TX, PA</b>)</li> <li>▪ Nursing homes required to have risk management and quality assurance programs (<b>FL</b>)</li> <li>▪ Courts required to report punitive damages awards against long-term care facilities (<b>FL, TX</b>)</li> <li>▪ Establish quality of care monitors, separate from licensing inspectors (<b>FL, TX</b>)</li> <li>▪ Increased oversight of poor performing homes (<b>FL</b>)</li> <li>▪ Publication of nursing home “watch list” for consumers to evaluate the quality of nursing homes. (<b>FL</b>)</li> <li>▪ Establish facility “early warning system” based on financial and quality of care indicators (<b>TX</b>)</li> </ul> | <ul style="list-style-type: none"> <li>▪ No present requirement for nursing homes to maintain liability insurance.</li> <li>▪ No specific requirement related to Risk Management and Quality Assurance (QA) Programs.               <ul style="list-style-type: none"> <li>→ Federal law requires nursing home committee to identify issues applicable to QA and to develop and implement appropriate plans of action for identified quality deficiencies (42 CFR 483.75(o))</li> <li>→ State requires nursing homes to have a patient care policy committee (CCR Title 22, Section 72525); and a staff development program that addresses numerous risk management issues (CCR Title 2, 72517(a))</li> </ul> </li> <li>▪ No current DHS requirement.</li> <li>▪ No equivalent to Texas system of quality care monitors. AB 1731, Governor’s nursing home reform legislation, established a nursing home technical assistance unit, separate from licensing.</li> <li>▪ DHS conducted a two-year pilot program of focused enforcement that targeted 35 facilities. DHS intends to expand its focused enforcement effort to include up to 100 facilities.</li> <li>▪ DHS does not publish a “watch” list.</li> <li>▪ AB 1731 created a Skilled Nursing Facility (SNF) Financial Solvency Advisory Board that will develop and recommend to the Director financial solvency licensing requirements and standards relating to the operation of SNFs.</li> </ul> |

# CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS

Adopted or Introduced in 2001-02 by Other States  
(States highlighted in bold have enacted statutes)

| Other States' Quality Initiatives  | Existing California Statute or Process   |
|--|--|
| <ul style="list-style-type: none"> <li>Higher nursing home staffing standards for direct care workers (<b>FL</b>)</li> <li>New training requirements for Certified Nurse Assistants (CNAs) (<b>FL</b>)</li> <li>Increased penalties for nursing homes with deficiencies (<b>FL</b>)</li> <li>Increased training for surveyors (<b>TX</b>)</li> <li>Establish Quality of Long-Term Care Facility Improvement Trust Fund to support quality initiatives (<b>FL</b>)</li> </ul> | <ul style="list-style-type: none"> <li>3.2 hours per patient day minimum standard (one of highest in nation). AB 1075 (2001) requires CA to convert to ratio and establish regulations by 2003.</li> <li>AB 1731 (2000) increased classroom hours required for CNA pre-certification program from 50 to 60 hours. Requires DHS to develop a standardized CNA curriculum, review the current examination process and develop a plan that identifies and encourages career ladder opportunities for CNAs by 2004.</li> <li>AB 1731 (2000) increased fines associated with violations of licensing standards. For violations that cause the death of a patient, fines were raised from a maximum of \$25,000 to a maximum of \$100,000. For violations that did or could cause serious harm, fines were raised from a maximum of \$10,000 to a maximum of \$20,000.</li> <li>CA has a nationally recognized Surveyor Academy that includes six full-time weeks of didactic instruction interspersed with field experience and mock surveys (three months total). All new surveyors must complete this Academy and attend and pass a 40 hour federal Basic Surveyor Course.</li> <li>AB 1731 (2000) included provision for quality awards to exemplary facilities. <ul style="list-style-type: none"> <li>→ Innovative grants to nursing facilities to fund projects that demonstrate methods to improve quality of care and quality of life for nursing home residents</li> </ul> </li> </ul> |

# CALIFORNIA COMPARISON: NURSING HOME LIABILITY INSURANCE REFORMS

Adopted or Introduced in 2001-02 by Other States  
(States in bold have enacted statutes)

| Other States' Quality Initiatives   | Existing California Statute or Process  |
|---|---|
| <ul style="list-style-type: none"> <li>Require review of survey process (TX)</li> <li>Require review and report on the effectiveness of legislative revisions to improve the liability insurance situation (TX)</li> <li>Designation of specific component of the Medicaid reimbursement rate for liability insurance (TX)</li> </ul> | <ul style="list-style-type: none"> <li>AB 1731 (2000) required a report to the Legislature on the effectiveness of the DHS enforcement system.</li> <li>AB 430 (2001) required a report to the Legislature on the cost and availability of liability insurance to long-term care providers.</li> <li>During 2000/2001 long-term rate study DHS recognized a rate add-on for certain long-term care providers to reflect an acknowledgement of the increasing cost of liability insurance, DHS is currently analyzing industry requests (and supporting documentation) to increase rates in response to rising liability costs. AB 1075 (2001) mandates that CA adopt a facility-specific rate-setting system by 2004. Details regarding the methodology to be implemented are not yet available.</li> </ul> |

Source: Prepared by the Department of Health Services. Includes information from "State Overview: Nursing Home Liability Insurance Reforms" Adopted or Introduced in 2001-02, Senate Office of Research (3/1/02)

<sup>1</sup> Deborah Hedgecock and Jennifer Salmon, *Lawsuits and Liability Insurance Experience of Florida Nursing Facilities, January-October 5, 2001*, Florida Policy Exchange Center on Aging, University of South Florida, Tampa, FL, December 18, 2001, p. 3.

<sup>2</sup> Theresa Bourdon, and Sharon Dubin, *Florida Long Term Care General Liability and Professional Liability Actuarial Analysis*, AON, January 17, 2000, p 5.

<sup>3</sup> *Overview of the Staff Findings and Recommendations Included in the Informational Report of the Task Force on Availability of Long-Term Care*. Florida Policy Exchange Center on Aging, June 30, 2001, p. 5. [www.fpeca.usf.edu](http://www.fpeca.usf.edu).

<sup>4</sup> *Final Staff Informational Report to the Task Force on Availability and Affordability of Long-Term Care in Response to House Bill 1993*, Florida Policy Exchange Center on Aging, University of South Florida, Tampa, FL, January 28, 2001, p 5.

<sup>5</sup> Hedgecock, *op.cit* , p.1.

<sup>6</sup> Select Committee on Liability Insurance for Long Term Care Facilities, "Executive Summary," of the *Final Report: Select Committee on Liability Insurance for Long Term Care Facilities*, page 1, March 15, 2002.

<sup>7</sup> *Ibid.*, p.2.

<sup>8</sup> "Nursing Home Liability Insurance Rates: Factors Contributing to the Rate Increases in Texas," *Brief*, Senate Research Center, Austin, TX, February 2001, p.5.

<sup>9</sup> "Best Practices Adopted to Curb Nursing Home Claims," Texas Department of Insurance, December 4, 2001. [www.tdi.state.tx.us/commish](http://www.tdi.state.tx.us/commish).

<sup>10</sup> "Nursing Home Liability Insurance Rates...", *op.cit*, p.7.

<sup>11</sup> Stephanie K. Jones, "The Shrinking, Expensive Market for Nursing Home Coverage," *Insurance Journal Property and Casualty Magazine*, August 2001, p. 2.

<sup>12</sup> House Insurance Committee, "Interim Committee Hearing Report", May 6, 2002.

<sup>13</sup> Devore, *op.cit.*, p. 5.

<sup>14</sup> *Ibid.*

<sup>15</sup> Lawrence J. Beaser, and Howard Burde, "The New Mcare Act-Significant Long Term Reforms; Modest Short-Term Relief," Pennsylvania Osteopathic Medical Association, [www.poma.org](http://www.poma.org).

<sup>16</sup> Bourdon, *op.cit.*, p 3.